

IN THE FIFTH JUDICIAL DISTRICT OF IOWA

IN RE: COVID-19 Administrative Directives  
for the Polk County Courthouse  
Campus

ADMINISTRATIVE ORDER 2020-36  
(REPLACES ADMINISTRATIVE ORDER  
2020-26 AND 2020-27)

This order replaces Administrative Order 2020-26 dated March 25, 2020, as well as Administrative Order 2020-27 dated April 1, 2020. This order serves to clarify prior directives in these and other administrative orders in light of the most recent supervisory order from the Iowa Supreme Court dated May 22, 2020, which provides a timetable for the transition to the resumption of court services.

**I. PERSONNEL RELATED MATTERS**

- A. General personnel-related directives.** All Judicial Branch employees are directed to review and follow the general directives contained within the “Coronavirus: Frequently Asked Questions” at the Judicial Insider Employee Resource Center. These directives supersede the self-quarantine provisions contained within paragraph I(A) of Administrative Order 2020-26. The link for these FAQs can be found here: [View Coronavirus FAQ.docx](#)
- B. Remote Work Protocol.** The remote work protocol for judicial officers contained in Administrative Order 2020-26 shall only be in effect through July 10, 2020. Effective July 13, all judicial officers who have not otherwise received personalized instruction shall perform their statutorily mandated job duties from the Polk County Courthouse Complex.
- C. Docket Consolidation.** The docket consolidation protocol set forth in Administrative Order 2020-26 shall only be in effect through July 10, 2020. Effective July 13, all judicial officers are responsible for covering their dockets as assigned in Administrative Orders 2019-43, 2019-44, 2019-45, 2019-48 and 2019-53.

**II. CRIMINAL**

- A. Initial Appearances.** Through December 31, 2020, judicial officers may conduct initial appearances by telephone or videoconference. A defendant may waive an initial appearance by executing a written waiver that provides the necessary information as required by Iowa Rule of Criminal Procedure 2.2(1)-(4)(a). If the defendant has not

waived his/her appearance, and the appearance cannot be conducted by telephone or videoconference, it must be conducted in person.

- B. Preliminary Hearings.** Effective July 13, 2020, and through December 31, 2020, all preliminary hearings may be conducted in-person or by videoconference. **Effective July 13, 2020, Administrative Order 2020-27 is rescinded and all in-custody preliminary hearings shall be set ten (10) days from the date of initial appearance.** Out of custody preliminary hearings shall be scheduled twenty (20) days from initial appearance, consistent with Iowa Rule of Criminal Procedure 2.2(4)(a).
- C. Bond Reviews.** Effective July 13, 2020, bond reviews shall be addressed in the courtroom in which the case is assigned. Through December 31, 2020, judicial officers shall conduct bond reviews via teleconference or videoconference, if the defendant's presence has not been waived by counsel. If counsel elects to waive the defendant's presence and appear on the defendant's behalf, the Court shall make a bond determination on the parties' submissions and affidavits. Judicial officers are strongly encouraged to modify bond for those in-custody defendants who have been charged with non-violent offenses up to and including class D felonies.
- D. Arraignments.** Through December 31, 2020, where a party is represented by counsel, the court shall only accept written arraignments. If a written arraignment has not be filed with the court prior to the scheduled hearing, case coordinators are instructed to continue the scheduled arraignment for seven (7) days. Counsel shall file a written arraignment prior the rescheduled arraignment date. If counsel fails to file a written arraignment within seven (7) days from the rescheduled date, a show cause order may be entered directing counsel and the defendant to personally appear and explain why they have failed to follow the court's prior orders.
- E. Fingerprinting.** The Polk County Sheriff will continue fingerprinting pursuant to Iowa Code §690.2. Therefore, prior to the court accepting a petition to plead guilty, the defendant shall be fingerprinted. To schedule an appointment or confirm a defendant has been fingerprinted, the PCSO (identification division) may be contacted at 515-286-2030 or 515-286-3813.
- F. Competency Hearings.** All contested competency hearings will occur by in-person hearing. All other competency hearings, including review hearings, shall be submitted and decided on the written pleadings and affidavits of the parties and required medical reports.

- G. Pre-trial Conferences/Status Conferences.** Through December 31, 2020, pre-trial conferences/status conferences previously scheduled should be and are hereby cancelled. All parties shall continue to resolve cases without direct court intervention. To ensure parties are working on such resolutions, the court will set a case status review date to assess the progress of the case, independent of the parties. Prior to the review date, the parties are ORDERED to submit a stipulated pretrial conference order, plea petition, or other status report, which the court will process. The parties' stipulations will be made of record with the filing of the parties' proposed order, petition, or report. To the extent the parties require an in-person hearing date after July 13, 2020, the court will enter a separate order setting the same.
- H. Pre-trial Motions.** Except for those pre-trial motions filed pursuant to Iowa Rule of Criminal Procedure 2.12, all pre-trial motions shall be deemed fully submitted on the pleadings and affidavits, unless the court determines a hearing is necessary. If a record of the proceedings will be made, the court shall provide notice to the designated court reporter scheduler not less than three (3) days in advance of the hearing.
- I. Plea Petitions.** Through December 31, 2020, where a party is represented by counsel, the court may accept written plea petitions.
- J. Sentencing Hearings.** Through December 31, 2020, for all indictable offenses, the court shall allow any party (the prosecutor, defense counsel, defendant, victims, and witnesses) to appear for sentencing via teleconference or videoconference. To appear by via teleconference or videoconference, the defendant shall either (a) execute a written waiver or (b) make a waiver on the record.
- K. Restitution Hearings.** All restitution hearings shall be deemed fully submitted on the parties' pleadings and affidavits. If, however, the judicial officer determines that an evidentiary hearing is necessary, the parties may appear via teleconference or videoconference. If a record of the proceedings will be made, the court shall provide notice to the designated court reporter scheduler not less than three (3) days in advance of the hearing.
- L. Probation Violation Hearings.** Through December 31, 2020, the court may allow counsel, the defendant, and the assigned probation officer to appear via teleconference or videoconference for non-evidentiary probation violation or dispositional hearings. If the parties request an evidentiary hearing, the court shall schedule an in-person hearing after July 13, 2020. To appear remotely, the defendant



shall either execute a written waiver or make such a waiver on the record at the beginning of the hearing. Where a party is represented by counsel, the court shall only accept written stipulations. In cases where the Department of Correctional Services is not seeking incarceration, the department may request a hearing by videoconference. While the decision to grant a hearing by videoconference remains in the discretion of the judicial officer, judicial officers are encouraged to grant the department's requests, if appropriate. Jail court shall continue to handle misdemeanor, non-evidentiary first round probation violations consistent with the court's pre-pandemic practices.

**M. Motions to Reconsider/Correct Illegal Sentence/ Other Post-Judgment Motions.**

All other post-judgment motions not specifically addressed herein shall be deemed fully submitted on the pleadings and affidavits. If, however, the court determines that a hearing is necessary, the parties may appear via teleconference or videoconference. If a record of the proceedings will be made, the court shall provide notice to the designated court reporter scheduler not less than three (3) days in advance of the hearing.

**N. Seized Property/Forfeiture Hearings.** Through December 31, 2020, seized property hearings pursuant to Iowa Code chapter 809 shall be conducted telephonically within the statutorily-mandated timeframe. Absent a 60-day waiver, forfeiture hearings pursuant to Iowa Code chapter 809A shall be conducted in person.

**O. No-Contact Order Hearings.** Violation of no-contact order hearings shall be conducted in person and within the statutorily-mandated timeframe. If a hearing is required on an application to extend, modify or cancel a no-contact order, and the request is made prior to the expiration date, an in-person hearing shall be scheduled after July 13, 2020. The temporary no-contact order shall remain in effect pending the in-person hearing date.

**P. Paperwork for Polk County Inmates.** Through December 31, 2020, the Polk County Jail will assist the courts in eliminating unnecessary hearings by having inmates sign paperwork in the jail. This will enable a reduction in the movement and transportation of inmates to and from the Polk County Criminal Courthouse.

1. A bin for all district and associate criminal courts will be placed with the judicial assistant in Polk County Criminal Court Building **Room 210** for attorneys to drop off documents which inmates need to sign (see the guideline for attorneys



below), and attorneys will pick up the signed documents from this same location.

2. Documents covered by this procedure include waivers of preliminary hearing; written arraignments; petitions to plead guilty; stipulations to probation violations; other required written waivers of all types; and any other written documents required to be signed by a defendant and filed with the court.
3. Documents delivered by NOON will be transported to the jail that same day. Documents will be returned for attorneys to pick up by NOON two (2) days later.
4. In order to facilitate proceedings which may be conducted on paper without in-person appearances in court, attorneys must follow this procedure:
  - i. Attorneys must go over the document with the inmate via iWeb or some other similar means so that the inmate is aware of what is being sent for his or her signature (inmates will not have time to re-review the documents when presented for signing, so attorneys need to go through them thoroughly);
  - ii. The attorney shall place the document in an 8 ½ x 11 envelope with the inmate's name and the attorney's name clearly printed on the front. Only one inmate's documents per envelope; in other words, each inmate's paperwork must be in a separate envelope.
  - iii. The attorney shall indicate on the document where the inmate needs to sign, by means of sticky note, arrow, highlighting or any other means that will facilitate the inmate signing in the proper location.
  - iv. After the jail staff has had the inmate sign the document(s), they will be placed back in the envelope and returned to Room 210 for the attorney to pick up.

**NOTE:** Inmates will NOT be allowed to take time to review documents that the attorney has reviewed with them as the jail staff is not adequate to allow that additional time. Jail staff will offer the inmate the opportunity to sign the document and will make a notation on the envelope if any defendant declines to sign a document.

v. At NO TIME will jail personnel explain a form to an inmate, so attorneys MUST do that ahead of time.

5. This process does not apply to those inmates who have tested positive for COVID-19 or who are being housed in a unit containing other inmates who have tested positive. In that instance, or where counsel has concerns regarding coming into contact with paperwork from the jail, paperwork can be executed remotely via iWeb.

**Q. Prioritization.** Judicial officers shall prioritize those cases involving in-custody defendants. Cases involving in-custody defendants shall be adjudicated with all deliberate speed. If the parties have reached a plea agreement by which there will be a joint recommendation for a deferred judgment or a term of probation, judicial officers are strongly encouraged to consider releasing those defendants on their own recognizance. Furthermore, if the parties have reached a plea agreement and the defendant seeks an expedited sentencing, the matter shall be set for sentencing, subject to requirements set for in Iowa Code §915.21.

**R. Teleconferencing/Videoconferencing Procedure at the Polk County Jail.** The Polk County Sheriff's Office has established four (4) locations (nac1, nac2, sac1, and sac2) with corresponding email addresses. Those email addresses are as follows:

- [nac1@polkcountyiowa.gov](mailto:nac1@polkcountyiowa.gov)
- [nac2@polkcountyiowa.gov](mailto:nac2@polkcountyiowa.gov)
- [sac1@polkcountyiowa.gov](mailto:sac1@polkcountyiowa.gov)
- [sac2@polkcountyiowa.gov](mailto:sac2@polkcountyiowa.gov)

All hearings involving in-custody defendants shall be conducted in one of these four locations. Ashley Howell or the court attendant assigned to Courtroom 210 will coordinate with the PCSO at the end of the day with a list of defendants who will be appearing via teleconference or videoconference the next day. The PCSO will send Ashley Howell (or Diane Cox if Ashley Howell is unavailable) a list detailing in which room a given defendant will be located for that day's hearing. Once a defendant's room assignment is established, the court will need to email that room the invitation to join the session shortly before the hearing.

**S. Jail Court Procedure.** With one exception, and until further order of the court, jail court shall proceed as outlined in Administrative Order 2020-28. Administrative Order

2020-28 is modified in that paragraph 4, requiring attorneys to appear in jail court with their clients, is removed. Instead, all parties may appear in jail court hearings by videoconference.

### **III. CIVIL**

#### **B. General Trial.**

1. All motions shall be deemed fully submitted on the pleadings and affidavits. If, however, the court determines that a hearing is necessary, the parties may appear via teleconference or videoconference. If a record of the proceedings will be made, the court shall provide notice to the designated court reporter scheduler not less than three (3) days in advance of the hearing.
2. All civil jury and non-jury trials shall be continued to a date no earlier than January 1, 2021, in order to accommodate the backlog of trials of both criminal and family law cases that have priority over civil proceedings.

#### **C. Family Law.**

1. Consistent with paragraph two (2) of the supreme court's May 22, 2020, Supervisory Order, the following family law matters are considered emergency proceedings: elder abuse petitions initiated pursuant to chapter 235B, dependent elder abuse petitions initiated pursuant to chapter 235F, and petitions for protective orders initiated pursuant to chapters 236 and 236A may be held in person or conducted by telephone or videoconference.
2. As it relates to proceedings initiated pursuant to Iowa Code §§236 and 236A, a final hearing is required by statute to be held not less than five (5) and not more than fifteen (15) days after commencing a proceeding and notice to the defendant. Thus far, these statutory deadlines on final hearings have not been waived or otherwise tolled by supervisory order. As such, the court shall commence final hearings on actions commenced pursuant to Iowa Code §§236 and 236A within fifteen (15) days after commencing a 236 or 236A proceeding. These hearings must be conducted in person.
3. Violation of no-contact order hearings shall be conducted in person and within the statutorily-mandated timeframe.
4. If a hearing is required on an application to extend a no-contact order, and the request was made prior to the expiration date, an in-person hearing shall be



scheduled after July 13, 2020. The existing order remains in effect pending the in-person hearing.

5. All hearings on petitions for writs of habeas corpus shall continue to be conducted in person.
6. All other family law motions shall be deemed fully submitted on the pleadings and affidavits. If, however, the court determines that a hearing is necessary, by consent of the parties, the matter may proceed via teleconference or videoconference. Notwithstanding the provisions set forth in section III(B)(1) and (2) of this order, if a record of the proceedings will be made, the court shall provide notice to the designated court reporter scheduler not less than three (3) days in advance of the hearing.
7. By consent of the parties, family law trials scheduled between June 15, 2020 and July 10, 2020 shall be conducted via video conference or teleconference. Consistent with paragraph 2(b) of the Supreme Court's Prioritization Order (dated May 22, 2020), and in order to accommodate the backlog of family law cases, only those family law matters involving custody, visitation or child support may be scheduled for trial between July 13, 2020 and September 13, 2020. Trials scheduled between July 13, 2020 and September 13, 2020 will be confirmed or re-set for trial, at the court's discretion, following status conferences. In order to accommodate the backlog of criminal trials of a higher priority, no family law trials shall be scheduled between September 14, 2020 and November 20, 2020. All other family law trials, including those rescheduled for trial following status conferences, shall be continued to a date not earlier than November 23, 2020.

#### IV. JUVENILE

- A. **CINA Removals, CINA Adjudications, CINA Dispositions, CINA Reviews, CINA Permanency, CINA Permanency Reviews, Modifications, and Adoptions** shall continue to take place by GoToMeeting, including evidentiary hearings where testimony is required, through July 10, 2020; beginning July 13, 2020, such hearings shall be in person. Attorneys for parents are responsible for securing their client's presence. All exhibits shall be uploaded, not less than five (5) days prior to the hearing. The parties must notify the court as soon as practicable if a hearing will be contested. By prior agreement of all parties and approval of the court, paper review

*may* be allowed on CINA reviews and permanency reviews. Requests for paper reviews must be in writing and must indicate if any party objects. The decision on whether to grant a paper review is in the court's discretion. If a request for paper review is granted, to the extent possible, professional statements regarding positions, information about individual services, and the parties' suggestion for the next scheduled court date, should be filed by the parties.

- B. All Delinquency Pre-Trial Conferences, CINA/TPR Pre-Trial Conferences, Termination Reviews and Detention Reviews** shall continue to be conducted by paper review. No party shall appear for these proceedings unless otherwise ordered. The parties must upload their exhibits prior to the hearing date. Contemporaneously with the filing of exhibits, a party must also file a notice outlining the party's position regarding trial/adjudication hearing. The party's written notice must also include any case specific requested language, including, but not limited to: no-contact order or tracking requests. All dates must be secured from the appropriate judicial assistant in advance of the hearing. The court will review any uploaded exhibits and issue an appropriate order. All exhibits for termination reviews that have been uploaded will be admitted subject to written objection by counsel. Parties (or the court) may request a pre-trial conference or review via GoToMeeting and the court has discretion to grant that request or proceed by paper review. Such request shall be made at least 5 days prior the scheduled hearing.
- C. All Delinquency Pleas, Delinquency Dispositions, Delinquency Reviews, Delinquency Permanency Reviews, Revocations, Initial Detention hearings and Waivers** shall be conducted by GoToMeeting through July 10, 2020. Effective July 13, 2020, such hearings (with the exception of initial detention hearings) shall be in person. For dispositions, the child will need to execute a written waiver or make an oral waiver on the record to appear by video or teleconference. The court has the authority to continue a disposition to a date no earlier than July 13, 2020 if the child does not waive personal appearance. If the child is in custody, the court will contact detention or placement to have the client appear as ordered. If the child is out of custody, child's counsel will secure the child's participation. Juvenile court officers will communicate with parents as to how the hearing will be conducted.

- D. CINA Terminations** shall be conducted via GoToMeeting through July 10, 2020; beginning July 13, 2020, such hearings shall take place in person. Parents' counsel are responsible to secure their client's presences. All exhibits shall be uploaded 5 days prior to the hearing. Professional witnesses can testify by phone or teleconference. If any party objects to proceeding via videoconference, they shall file a motion no later than 5 days prior to the hearing. The court will then make an individualized determination whether the termination hearing shall proceed via GoToMeeting, or rescheduled to a date no earlier than July 13, 2020.
- E. Delinquency Adjudicatory Hearings** currently scheduled will be continued to no earlier than July 13, 2020. All delinquency adjudicatory hearings shall be in-person proceedings, consistent with paragraphs 6 and 42 of the supreme court's May 22, 2020 supervisory order.
- F. Ex Parte Removal Applications, Applications for a Domestic Abuse Protective Order, and Applications for Involuntary Mental Health and/or Substance Abuse Evaluations, and Judicial Bypass for Parental Notifications** shall be conducted as emergency matters, and as such either as an in-person proceeding, by GoToMeeting or by telephone, at the discretion of the judicial officer. Until further order of the court, subsequent hearings for involuntary mental health and/or substance abuse matters will be assigned to an appropriate judicial officer and held in person, by GoToMeeting or by telephone, at the discretion of the judicial officer. If any party objects to proceeding via videoconference, they shall file a motion as soon as possible. The court will then make an individualized determination whether to proceed in-person or remotely. Any subsequent domestic abuse hearings shall be held by in person hearing.
- G. Reports.** All required reports, including guardian ad litem reports, shall be filed five days prior to the scheduled hearing.
- H. Judicial Officers.** Through July 10, 2020, one juvenile judge will be physically present in the Polk County Justice Center to handle all removals, 125, 229, and 236 matters. The clerk's office and county attorneys shall direct applicants to the judge assigned that day as follows: Monday- Judge Ayotte; Tuesday- Judge Seymour; Wednesday- Judge Belcher; Thursday- Judge Poschner; Friday- Judge Cox. Effective July 13,



2020, all juvenile judges shall be personally present in the Justice Center, consistent with paragraph I(B) of this order.

- I. **Juvenile Guardianship Cases.** To the extent possible, and within the statutorily-required deadlines, initial juvenile guardianship hearings shall be held remotely through GoToMeeting. If arrangements cannot be made to handle the initial hearings remotely, these shall be held in person. All other guardianship hearings shall be conducted by telephone, videoconference, or continued to a date no earlier than July 13, 2020, at the discretion of the court.

V. **MAGISTRATE COURT**

- A. **Applications for Involuntary Mental Health and/or Substance Abuse Evaluations** are emergency proceedings and shall be handled in person by the magistrate assigned to handle mental health cases. Subsequent hearings for involuntary mental health and/or substance abuse matters will be assigned to an appropriate judicial officer and held in-person or by GoToMeeting. If the hearing is held by GoToMeeting, the county attorney is responsible for securing the presence of the applicant and the affiant for the hearing. Respondent's counsel is responsible to communicate with the hospital to ensure the presence of the respondent for the GoToMeeting hearing. Counsel shall also communicate with his or her client prior to the hearing, explaining the use of GoToMeeting. If all necessary parties appear by GoToMeeting, the hearing shall be handled in person consistent with the court's prior administrative orders. In any event, professional witnesses may appear by telephone or videoconference.
- B. **Small Claims.** Except as set forth below, small claims trials scheduled for hearing between June 1, 2020, and July 10 2020, shall be continued to a date not earlier than July 13, 2020. Motions to quash garnishment hearings are emergency hearings and until December 31, 2020, should be conducted in-person, by telephone or by videoconference, at the discretion of the judicial officer. If arrangements cannot be made to have all parties, including self-represented parties, appear by telephone or GoToMeeting, the garnishments shall be stayed, and an in-person hearing scheduled after July 13, 2020. Forcible entry and detainer actions where the tenant poses a clear and present danger are emergency hearings and shall be immediately scheduled for hearing consistent with the court's calendar. All other forcible entry and detainer


actions are not considered emergency hearings. Non-emergency forcible entry and detainer actions currently scheduled for hearing between June 1, 2020, and July 13, 2020, shall be continued to a date not earlier than July 13. Both emergency and non-emergency forcible entry and detainer hearings may, at the sole discretion of the judicial officer, be heard in-person, by telephone or by videoconference.

**C. Traffic Court.**

- 1. Initial Appearances.** Through December 31, 2020, judicial officers may conduct initial appearances by telephone or videoconference for simple misdemeanor or traffic cases. A defendant may waive an initial appearance by executing a written waiver that provides the necessary information as required by Iowa Rule of Criminal Procedure 2.2(1)-(4)(a). If the defendant has not waived his or her appearance on simple misdemeanor cases and the appearance cannot be conducted by telephone or videoconference, the initial appearance must be conducted in-person. Initial appearances on traffic citations that cannot be conducted remotely are continued to a date no earlier than July 13, 2020.
- 2. Pre-Trial Conferences.** For self-represented defendants, pre-trial conferences currently scheduled between June 1 and July 10, 2020, shall be continued and an in person pre-trial conference will be scheduled after July 13, 2020. Where defendants are represented by counsel, pre-trial conferences scheduled before December 31, 2020, are cancelled. Parties are encouraged to continue to resolve their cases. Written guilty pleas and sentencings will continue to be processed by the court. The judicial officer assigned to traffic court shall file a notice in all cases where a pre-trial conference is cancelled, setting an appropriate court review date. If the cases have not been resolved by the time of the court review, and after July 13, 2020, the parties may request further hearing with the court.
- 3. Motions and Trials.** All traffic and simple misdemeanor motion hearings or bench trials are continued until a date not earlier than July 13, 2020.

**VI. MISCELLANEOUS.** The provisions set forth herein are subject to modification as circumstances warrant.

Dated this 4<sup>th</sup> day of June, 2020.



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MICHAEL D. HUPPERT, CHIEF JUDGE  
FIFTH JUDICIAL DISTRICT OF IOWA

Copies:  
Chief Justice Susan Christensen, Iowa Supreme Court  
Liaison Justice Edward Mansfield, Iowa Supreme Court  
State Court Administrator, Todd Nuccio  
Fifth Judicial District Judges, Staff and  
Stakeholders by email  
Posted on Judicial Branch Website